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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,352	04/06/2001	Harry Edward Mussman	12128-146001	2995
25764	7590	08/10/2005	EXAMINER	
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER MINNEAPOLIS, MN 55402			MILLS, DONALD L	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,352

Applicant(s)

MUSSMAN ET AL.

Examiner

Donald L. Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennefeld et al. (EP 1014633), hereinafter referred to as Bennefeld, in view of Yamamoto et al. (USPN 4,991,204), hereinafter referred to as Yamamoto.

Referring to claims 1, 10 and 19, Bennefeld discloses a directory gatekeeper for performing routing of calls through a plurality of gateway resource's (a root gatekeeper that routes packets through a packet network (see figure 4A-5B and abstract), the directory gatekeeper comprising one or more communication devices providing access to a plurality of resource management gatekeepers (the root gatekeeper can communicate with the gatekeepers that perform resource management (see figures 4A-5C and abstract) each resource management gatekeeper associated with one or more of the plurality of gateway resources (each gatekeeper has an associated RI,MU which is used for load balancing (see figures 4A-5C and abstract), and a processor operable to receive a request to initiate a call through the one or more communication devices (the root gatekeeper receives requests (see column 12)).

Bennefeld does not disclose the process of storing route lists in memory and selecting alternate routes based on the request.

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Yamamoto teaches a system wherein switching nodes receive call-connection requests and in response perform a look up of alternate available routes to use (see abstract, figure 1 and column 24)).

It would have been obvious to one skilled in the art at the time of the invention to implement this feature into Bennefeld because having alternate routes would make the system more reliable. Note, regarding claim 10, Yamamoto discloses that the switch when it receives the call-connection request searches a list of available routes for the call and then connects the call, thereby informing the call-connection requester that the chosen route is available (see abstract, figure 1 and column 24)). Note regarding claim 19, Yamamoto discloses sending a busy signal to the call-connection requester when there are no available routes (see figure 4)) but Bennefeld does not disclose the system is implemented using a computer readable medium. However, it would have been obvious to one skilled in the art at the time of the invention to implement the Bennefeld system in this manner because the developmental costs of a software implementation are less than that of a hardware based implementation. Furthermore, software is easier to upgrade than hardware.

Referring to claim 2, Bennefeld discloses one of the one or more communication devices provides access to a packet-based network (the root gatekeeper is coupled to the Internet (see figure 1)).

Referring to claim 3, Bennefeld discloses the packet-based network is an Internet protocol (IP) network (the root gatekeeper is coupled to the Internet (see figure 1)).

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Referring to claim 4, Bennefeld discloses the one or more communication devices provides access to the public switched telephone network (PSTN) (the root gateway is coupled to the PSTN (See figure 1)).

Referring to claims 5 and 15, Bennefeld discloses the system discussed above.

Bennefeld does not disclose that performing alternate routing of calls by identifying one or more candidate routes and selection available ones of the routes.

Yamamoto teaches that the switch when it receives the call-connection request searches a list of available routes for the call and then connects the call, thereby informing the call-connection requester that the chosen route is available (see abstract, figure 1 and column 24)).

It would have been obvious to one skilled in the art at the time of the invention to implement this feature into Bennefeld because making sure the alternate routes are available alternate routes would make the system more reliable.

Referring to claim 6, Bennefeld discloses the system discussed above.

Bennefeld does not disclose performing alternate routing of calls if none of the candidate routes are available, sending a response to the received further includes: request indicating that the request can not be completed.

Yamamoto teaches sending a busy signal to the call-connection requester when there are no available routes (see figure 4)).

It would have been obvious to one skilled in the art at the time of the invention to implement this feature into Bennefeld because doing so would make the system more user friendly by indicating to the user that the line cannot be reached.

Referring to claims 7 and 16, Bennefeld discloses the system discussed above.

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Bennefeld does not disclose' selecting a candidate route from the one or more candidate routes includes selecting the least cost route as the candidate route.

It would have been obvious to one skilled in the art at the time of the invention to implement this feature into Bennefeld because choosing the least cost route would thereby reduce the costs of routing the call, thereby improving efficiency and reducing resource usage.

Referring to claims 11, 12, 20 and 21, Bennefeld discloses the system discussed above.

Bennefeld does not disclose that the request includes a telephone number and a numbering plan area (NPA). However, since the communication between the subscribers of Bennefeld are using telephones and they can be in different area codes (i.e.. NPA's), it would have been obvious to one skilled in the art at the time of the invention to implement this feature into the system of Bennefeld because the use of these numbers are established standards, thus the system would conform to them.

Referring to claims 13 and 22, Bennefeld discloses the system discussed above.

Bennefeld does not disclose the request to initiate a call is an H.323 admission request (ARQ) message. However, H.323 ARQ messages are established standardized messages. Thus, it would have been obvious to one skilled in the art at the time of the invention to implement this feature into the system of Bennefeld because doing so would allow the system to conform to an established standard.

Referring to claims 14 and 23, Bennefeld discloses that each route in the list of routes is associated with a resource management gatekeeper (the gatekeepers manage all system resources and the routing of information through the routes of the system, which are directly related to the system resources.

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3. Claims 8, 9, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennefeld in view of Yamamoto and further in view of Harada et al. (USON 5,956,339), hereinafter referred to as Harada.

Referring to claims 8, 9, 17, and 18, Bennefeld discloses the system discussed above.

Bennefeld does not disclose that the selecting includes selecting a candidate route from the one or more candidate routes at a predetermined ratio.

However, Harada teaches a system wherein a routing manager (RMG) selects routes based on a backup ratio (see column 18 lines 3 1-33)).

Furthermore, it would have been obvious to one skilled in the art at the time of the invention to implement this feature into the system of Bennefeld because the backup ratio gives an indication of the resources available in case of failure thus considering them when making the route selection would improve the reliability of the Bennefeld system. Note regarding claim 9, all the routes in Bennefeld have a substantially equal likelihood of being chosen (i.e. they are either chosen or not, thus there is a 50% chance of being chosen).

Response to Arguments

4. Applicant's arguments filed May 24, 2005 have been fully considered but they are not persuasive.

Rejection Under 35 USC § 103

On pages 7 and 9 of the remarks, regarding claims 1, 8, 9, 10, 17, 18, and 19, in response to applicant's arguments against the references individually, one cannot show nonobviousness by

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attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

On pages 7 and 9 of the remarks, regarding claims 1, 8, 9, 10, 17, 18, and 19, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Donald L Mills



August 6, 2005



JOHN PEZZLO
PRIMARY EXAMINER